

HOA Ordinance

# Public Hearing

of the

City of Georgetown

April 4, 2016

# Striking a Balance

Protecting homeowners' interests			Stifling development
Ensuring public safety/common good			Government intrusion into private matters

“When I bought my home, no one told me there was an HOA.”

Provisions that contribute to the solution:

- HOA registry and information portal
- Seller disclosure requirements
- Model Home posting requirements
- Require HOA to provide information to buyers upon request
- Developer required to set forth HOA requirements in development documents (15-014 Common Scheme Ordinance)

“I pay dues to the HOA/developer, but I have no idea what they do with the money.”

### Provisions that contribute to the solution:

- Requires HOA to keep official records
- Requires HOA to provide info to homeowners at no charge.
- Requires HOA to produce yearly report of income and expenditures
- Requires HOA to pass annual budget
- Prohibit commingling of developer/HOA funds
- Funds can only be used for purposes specified in declaration

“I pay dues to the developer, but the neighborhood is still a mess.”

### Provisions that contribute to the solution:

- Requires developer to share costs of common area maintenance, either by paying association dues for lots or paying difference between total expenses of association and assessments received.
- Failure to maintain common areas declared a public nuisance
- City authorized to abate nuisance on common area
- City authorized to ask court to appoint receiver to collect dues to cover abatement costs. May ask for indefinite receivership to pay for ongoing maintenance expenses.
- Residents authorized to seek injunction to force compliance with Ordinance or with terms of declaration.

“The developer went belly-up and the remaining lots got sold to another developer or a builder.”

### Provisions that contribute to the solution:

- Developer's successors and assigns bound by declaration.
- Builders, contractors who buys lots to construct “spec” houses for sale must pay association dues and are entitled to only one vote in decision to amend declaration.
- Declaration cannot be changed absent a showing before Planning Commission of significant change in economic circumstances (Ord. 15-014)

“The neighborhood sign is crumbling and no one knows who owns it or who is responsible for fixing it.”

## Provisions that contribute to the solution:

- Requires all common areas to be identified on a recorded plat.
- Creates a conclusive presumption that any area intended for the use or benefit of all or several of the residents and not included within a lot owned by an individual lot owner or accepted by the city for maintenance is common area unless specifically excluded in the declaration.

“Our HOA is run by a third party management company with no respect for the residents' interests.”

## Provisions that contribute to the solution:

- Requires HOA meetings to be held at a location convenient to the residents.
- Requires 10-60 day notice of HOA meetings to homeowners.
- Allows 10% of lot owners to call a special meeting of the HOA
- Provides for time line for transition to resident-controlled HOA and requires property owner representation on Board based on % of lots sold.



“My plat and/or deed say an HOA is responsible for maintenance of common areas, but there is no HOA because: a) the developer never created it; or b) the residents voted to disband it.”

### Provisions that contribute to the solution:

- Requires developer to create HOA prior to issuance of Final Plat Approval (15-001 Stormwater Post Construction) or after sale of first lot
- Prohibits termination of HOA unless provisions are made for maintenance of common areas
- Provides a process for residents to reinstate defunct HOA

# Other HOA related ordinances

## Ord. 15-001 Stormwater Post Construction:

- Requires an HOA to manage all stormwater BMPs in new residential subdivisions.
- HOA must sign a maintenance agreement with City
- Developer must create HOA and record stormwater covenants prior to final plat approval.
- Responsibility for stormwater BMP maintenance must be borne proportionally based on lots owned/lots controlled by BMP

# Other HOA related ordinances

## Ord. 15-014 Common Scheme of Development

- Developer must set forth common scheme of development for entire subdivision (i.e. all phases) as part of plan approval process.
- Covenants, restrictions, and HOA requirements may vary from phase to phase, but may not be changed during the life of the development absent a showing of changed economic circumstances.